

No. 83-1056

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ALEXANDER L. STEVAS  
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IN THE  
**Supreme Court of the United States**

October Term, 1983

GENERAL MOTORS CORPORATION,  
*Petitioner,*

v.

OKLAHOMA COUNTY BOARD  
OF EQUALIZATION, *et al.,*  
*Respondents.*

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE SUPREME COURT OF OKLAHOMA

**REPLY BRIEF FOR PETITIONER**

ERWIN N. GRISWOLD  
*Counsel of Record*  
KATHLEEN B. BURKE  
JONES, DAY, REAVIS  
& POGUE  
1700 Huntington Building  
Cleveland, Ohio 44115  
(216) 696-3939

JOHN P. RALEIGH  
General Motors Corporation  
3044 West Grand Boulevard  
Detroit, Michigan 48202

JAMES D. FELLERS  
JOHN JOSEPH SNIDER  
MARGARET M. LOVE  
FELLERS, SNIDER, BLANKEN-  
SHIP, BAILEY & TIPPENS  
2400 First National Center  
Oklahoma City, Oklahoma  
73102

*Counsel for Petitioner*

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**REPLY BRIEF FOR PETITIONER**

**I. The Factual Contentions Raised By Respondents Are  
Not Properly In Issue On Review Of The Decisions  
Below, And Are Incorrect.**

The respondents seek to confuse the issues presented in the Petition by raising factual questions which were *not* decided by the Supreme Court of Oklahoma, and which in any event should be resolved in petitioner's favor.

Respondents' factual contentions involve the existence of petitioner's tax abatement contract with the Oklahoma Industries Authority ("OIA"), and the ownership of the property which respondents assessed for taxation, thus impairing the obligation of that contract. However, the decision below arose on respondents' motion for summary judgment. The trial court in granting summary judgment, and the Oklahoma Supreme Court in affirming it, did not decide these disputed issues of fact, but rather rendered judgment on issues of law by assuming the facts which

petitioner alleged and supported with evidence. The Oklahoma trial court made this clear:

The objection of the General Motors Corporation to the Motions for Summary Judgment set forth the material facts that are in controversy. . . .

And I'm of the opinion that it's clear under the Dunbar case that this contract, taken in the light most favorable to the Plaintiffs, is simply illegal, and therefore it's null and void, and *therefore any facts concerning it are simply not material to the outcome of this case*. The contract is illegal under the Constitution, Article 10, Section 5.

[Emphasis added.] (Transcript of Ruling of the Trial Court Made on March 25, 1982, p. 4; Reply App., p. A3.) The Oklahoma Supreme Court was equally clear that its decision did not rest on the factual contentions now raised by respondents. As to the "ownership" question, the court unequivocally stated that "OIA holds legal title to the property." (Pet. App., pp. A3-A4.)<sup>1</sup> Further, in reference to the contract issue, it said:

We will assume, arguendo, that OIA, a state agency, entered into the tax abatement agreement with GMC; and that both parties relied upon the then current Attorney General's opinion which expressed the view that public trust properties were not subject to taxation.

---

<sup>1</sup>Petitioner does own the land on which the plant was built, and pays the taxes thereon. The "property in question" here, though, is the improvements and personal property owned by OIA. The contention that title to the land carries with it taxable title to the improvements is both irrelevant to the issues presented here, and contradicted by respondents' own exclusion of the improvements from their 1979 assessment of the plant. (Reply App., p. A15.) The statute cited by respondents, 68 Okla. Stat. § 2419 defines real property as *distinguished from* personal property, for purposes of determining *which* tax applies; the taxable *status* of particular items, and *by whom* they must be listed for taxation, are matters governed by other provisions, such as 68 Okla. Stat. §§ 2405(b), 2426.

Pet. App., p. A7.

Thus, the basic question decided in this case by the Oklahoma courts was a question of law. That legal decision is wrong, disposes of the case, and prevents petitioner from obtaining any relief, absent intervention by this Court.

The factual "assumptions" made by the courts below in petitioner's favor are amply supported by the evidence. The inducements offered by the OIA, an agency of the State, in exchange for petitioner's agreement to build the Oklahoma City plant were specific, and were clearly intended to provide the consideration for petitioner's substantial investment. (Strasbaugh Depo., p. 20.) Describing the October 4, 1976 meeting between petitioner and state officials, OIA's legal counsel testified:

That meeting was designed to and did represent to the General Motors Corporation that the highest level of officialdom . . . in the State of Oklahoma, the Governor, the majority of the Oklahoma Tax Commission, and the Attorney General reiterated, reaffirmed that the current state of the inducement package, which included ad valorem tax relief and sales tax relief on plant construction was and would continue to be the law of the land in the State of Oklahoma.

(Work Depo., pp. 227-228.) OIA's proposal was based upon a statutory plan adopted in Oklahoma in 1951, and employed in literally hundreds of cases in the intervening years. (Work Depo., pp. 223-224.) Two letters sent on behalf of OIA to petitioner concretely described the procedures to be used in the proposed public trust financing, as well as the results of those procedures under Oklahoma law as it then existed and had been applied for some twenty-five years:

Since the Authority is "tax exempt," the improvements would not be subject to real estate (and in certain instances of major items of machinery) taxation during the term of the leasehold which implements

the public policy re-enunciated in the industrial development trust law reaffirmed by the last Legislature and the Governor of Oklahoma to induce you to come to Oklahoma.

(R. 304, Ex. 6, p.2; *see also* Ex. 5; Reply App. pp. A6-A14.)

In their Lease agreement, the OIA and petitioner specifically "recognize[d] that . . . the Project here demised is not subject to ad valorem taxation under the Constitution and laws of the State of Oklahoma." (Pet. App., pp. A27-A28.) Clearly, the parties to the contract, as distinguished from these respondents, understood and intended to be bound by their contract which, under applicable state law, resulted in an obligation of tax abatement. (Work Depo., p. 229; Edman Depo., pp. 53-54.) The objectives of their agreement were crystal clear: a new plant and 5,000 jobs for Oklahoma, and twenty years of tax abatement for petitioner. Petitioner has performed, but Oklahoma has not.

An additional "red herring" involving the facts is respondents' assertion that petitioner's contract was made with a state agency rather than with the local taxing authorities, and therefore could not confer the tax exemption at issue. This argument, again, was not the basis for the decision below and thus is not properly raised here. Moreover, it ignores the fact that the source of local taxing power is the state's Constitution and statutes. State law creates local taxing authority and defines its limitations, including the exemption of state-owned property mandated by Article 10, Section 6 of the Oklahoma Constitution. The state's acquisition and ownership of property, through the OIA or any other state agency, results in exemption of that property pursuant to state law regardless of local "consent." Respondents acknowledged as much in their 1979 assessment of the Oklahoma City plant, by recognizing (and, in effect, "consenting" to) the exemption of the improvements owned by OIA. (Reply App., p. A15.)

## II. Oklahoma Attorney General Opinions Are Legislative In Character And Effect For Purposes Of The Contract Clause.

Respondents urge an artificially narrow view of legislative action, in an effort to conceal the constitutional significance in this case of Oklahoma Attorney General Opinion No. 79-168, which "prescribe[d] substantive law" with "the force and effect of a 'rule'" of "general applicability." *Grand River Dam Authority v. State*, 645 P.2d 1011, at 1014, 1016 (Okla. 1982). Their reliance on *Perry Education Association v. Perry Local Education Association*, \_\_\_ U.S. \_\_\_, 103 S. Ct. 948 (1983), to support this contention is misplaced. In deciding that a collective bargaining agreement was not a state *statute* for appellate jurisdictional purposes under 28 U.S.C. § 1254(2) (1976), this Court properly distinguished bilateral, negotiated agreements from true "legislative action," which it defined as "the unilateral promulgation of a rule with continuing legal effect." 103 S. Ct. at 953. The similarity of this definition to the Oklahoma Supreme Court's description of Attorney General opinions in *Grand River Dam*, *supra*, compellingly demonstrates the legislative character of such opinions.

The circumstances in this case show even more clearly the legislative character and effect of the Attorney General's pronouncement. Opinion No. 79-168 revoked the previous Attorney General's Opinion No. 69-156, which authoritatively reflected unchallenged state practice since 1951. The effect was to require taxation of the buildings and equipment at the Oklahoma City plant. Petitioner's reliance on the 1969 Opinion was entirely justified under Oklahoma law. As stated by former Attorney General Derryberry, "... any time the Attorney General has written an official opinion, . . . that opinion is effective until it's overturned, much as a court decision is official until it's later overturned . . ." Derryberry Depo., p. 40. The exemption



from taxation prescribed by the 1969 Opinion was an obligation which became a material part of petitioner's contract with the state. The state impaired that obligation by revoking the prior Opinion and requiring taxation under the rule prescribed by the new Opinion, which respondents were then *required* to observe as they had previously observed Opinion No. 69-156. *State ex rel. Cartwright v. Dunbar*, 618 P.2d 900, 913 (Okla. 1980); *Pan American Petroleum Corp. v. Board of Tax Roll Corrections of Tulsa County*, 510 P.2d 680 (Okla. 1973).

### III. Respondents' Revocation Of The Tax Exemption For Petitioner's Plant Constituted A Fundamental Change In The State Of The Law Applicable To Petitioner's Agreement With The State.

In its 1980 ruling in *Dunbar, supra*, the Oklahoma Supreme Court found that the first notice that public trust properties were subject to ad valorem taxation did not occur until July 1979:

. . . [N]o taxes have been assessed or paid [on public trust property] . . . since the Legislature first authorized public trust financing in 1951.

It appears the Legislature was of the view that public trust property was constitutionally exempt from taxation . . . The March 17, 1969 opinion of the Attorney General (No. 69-156) concluded that property in which legal title was in a public trust was not taxable . . . The first notice . . . that public trust property would be subject to taxation was the July 31, 1979 opinion of the Attorney General.

*State ex rel. Cartwright v. Dunbar*, 618 P.2d 900, 913 (Okla. 1980).

Respondents' present argument that the decision denying the Oklahoma City plant a tax exemption was foreshadowed and did not constitute a change in state law as it existed at the time petitioner entered into its tax abate-

ment agreement is plainly frivolous in light of the findings in *Dunbar*. Moreover, respondents' argument is contradicted by their own actions in recognizing the plant's tax exempt status in 1979. (Reply App., p. A15.) In fact, the exemption was constitutionally compelled by existing interpretations of the provision of the Oklahoma Constitution specifically exempting "all property . . . of this State, and of counties and municipalities of this State . . . from taxation." Okla. Const. Art. 10, § 6.

Beyond this specific exemption of state property from taxation, the provisions of the Oklahoma Constitution, cited by respondents to show that tax abatement agreements have been void in Oklahoma since its Constitution was adopted, have always been construed realistically with other provisions of state law to permit the Legislature to authorize tax exemptions in certain situations. The pattern was set in *In re Assessment of First Nat. Bank of Chickasha*, 58 Okla. 508, 160 P. 469 (1916), *overruled in part on other grounds, Board of Equalization v. First State Bank*, 77 Okla. 291, 188 P. 115 (Okla. 1920). There, the Oklahoma Supreme Court held that Okla. Const. Art. 5, § 50, cannot be blindly applied without reference to other constitutional powers and duties of the Legislature to preserve the State's credit and provide for its welfare. The court in that case upheld the validity of a contract with purchasers of the State's bonds to exempt those bonds from taxation:

There being nothing in the Constitution that expressly forbids the Legislature to exempt the bonded indebtedness of the state from taxation, the consequence is that the power to do so exists, and may be called into action at the legislative will. . . . While the bonds of a state, held by the residents of the state by which they are issued, may be taxed by the state or by its lawful authority, such may not be done if there be a valid contract with the holder exempting them from taxation.

*Id.* 160 P. at 474-475. Since that decision, the Oklahoma legislature has exempted numerous types of property from ad valorem taxation under its power to classify property for purposes of taxation.

Notwithstanding respondents' claim to the contrary, neither Oklahoma Attorney General Opinion No. 74-229 nor any decision of the Oklahoma Supreme Court prior to 1979 in any way foreshadowed the invalidation of petitioner's tax abatement agreement with the state. The Oklahoma Supreme Court so found in *Dunbar*, quoted *supra* at page 6.

#### IV. Petitioner Presented And The Oklahoma Courts Decided Below The Contract, Due Process, And Taking Clause Arguments.

Respondents' argument that this Court lacks jurisdiction to hear petitioner's constitutional arguments, on the grounds that those arguments were not presented to nor decided by the courts below, is contradicted completely by the record. Pet. App., pp. A5, A30. Almost the entire opinion of the Oklahoma Supreme Court is devoted to the federal constitutional issues. While it discussed the case primarily in terms of the Contract Clause, that court also decided the Fifth and Fourteenth Amendment issues by refusing to afford petitioner their protection. (Pet. App., pp. A5, A12.) Furthermore, even if the Oklahoma court had not addressed the Due Process and Taking Clause arguments, that could not deprive this Court of jurisdiction to decide those issues.

. . . [T]he Constitution, which guarantees rights and immunities to the citizen, likewise insures to him the privilege of having those rights and immunities judicially declared and protected when such judicial action is properly invoked . . . .

[C]onstitutional rights are denied as well by the refusal of the state court to decide the question, as by an erroneous decision of it, . . .

[Citations omitted.] *Lawrence v. State Tax Commission of Mississippi*, 286 U.S. 276, 282 (1932).

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

ERWIN N. GRISWOLD

*Counsel of Record*

KATHLEEN B. BURKE

JONES, DAY, REAVIS & POGUE

1700 Huntington Building

Cleveland, Ohio 44115

(216) 696-3939

JAMES D. FELLERS

JOHN JOSEPH SNIDER

MARGARET M. LOVE

JOHN P. RALEIGH

General Motors Corporation

3044 West Grand Boulevard

Detroit, Michigan 48202

FELLERS, SNIDER,

BLANKENSHIP, BAILEY

& TIPPENS

2400 First National Center

Oklahoma City,

Oklahoma 73102

*Counsel for Petitioner*

March, 1984

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APPENDIX

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

OKLAHOMA INDUSTRIES )  
AUTHORITY and GENERAL )  
MOTORS CORPORATION, )

*Plaintiffs,* )

vs. )

OKLAHOMA COUNTY BOARD OF )

EQUALIZATION and GEORGE )

KEYES, OKLAHOMA COUNTY )

ASSESSOR, and JOE B. BARNES, )

COUNTY TREASURER OF )

OKLAHOMA COUNTY, )

*Defendants,* )

and )

JAN ERIC CARTWRIGHT, )

ATTORNEY GENERAL OF THE )

STATE OF OKLAHOMA, )

*Defendant-Intervenor.* )

CJ-80-4524

CJ-81-422

Consolidated

. . . .

RULING OF THE COURT  
MADE ON THE  
25TH DAY OF MARCH, 1982  
BY THE  
HONORABLE JACK R. PARR

. . . .

Reported by:  
REBECCA BRANDON, CSR, RPR  
705 County Courthouse  
Oklahoma City, Oklahoma

OKLAHOMA COUNTY  
OFFICIAL COURT TRANSCRIPT

## APPEARANCES

MR. JOHN JOSEPH SNIDER and MS. MARGARET McMORROW-LOVE, Attorneys at Law, 24th Floor First National Center, Oklahoma City, Oklahoma, 73102, appearing on behalf of the Plaintiff General Motors Corporation.

MR. DAVID NICHOLS, Attorney at Law, 2210 First National Center, Oklahoma City, Oklahoma, 73102, appearing on behalf of the Plaintiff Oklahoma Industries Authority.

MR. GEORGE W. PAULL, JR., and MS. JIMANNE HARRIS MAYS, Assistant District Attorneys, 403 County Office Building, Oklahoma City, Oklahoma, 73102, appearing on behalf of the Defendants.

MR. JAMES B. FRANKS and MR. SCOTT FERN, Assistant Attorney Generals, 112 State Capitol Building, Oklahoma City, Oklahoma, 73105, appearing on behalf of the Defendant-Intervenor.

THE COURT: Do we have everybody here that we need in this case? Are there any attorneys missing or anything?

MR. FRANKS: No, Your Honor, everyone is present.

THE COURT: Everyone is present.

Well, both sides in this case have filed a tremendous amount of pleadings and various documents in connection with this case, and that has occasioned the necessity for an additional forty-eight hours on behalf of the Court to ascertain what judgment should be rendered in this case at this point in the proceedings.

That may have taken an extra amount of time because of the volume of those things. But they do indicate a tremendous amount of work on behalf of both sides in this case. And I think that both of you are to be con-

gratulated, both sides, for the tremendous amount of work that is obvious from the files in this case.

It's made it take a little longer for the trial judge to sift through all of that. But it has accomplished the circumstance where I at least feel that I'm absolutely correct in what I'm about to do in this case.

You've distilled it down to the point where there's nothing left to be said on either side or no position left to be expressed that hasn't already been covered. So I think both sides are to be congratulated for the work that you've done in the case.

The Dunbar opinion, of course, is the landmark case. It's a very recent case handed down in 1980, and everybody is thoroughly and completely familiar with it. There's no question but what it's controlling in the case before the Court here.

The objection of the General Motors Corporation to the Motions for Summary Judgment set forth the material facts that are in controversy. And I think it's clear that all of the disputed issues of fact in this case concern contract.

And I'm of the opinion that it's clear under the Dunbar case that this contract, taken in the light most favorable to the Plaintiffs, is simply illegal, and therefore it's null and void, and therefore and facts concerning it are simply not material to the outcome of this case. The contract is illegal under the Constitution, Article 10, Section 5.

And I'm of the opinion that the depositions and the admissions and the pleadings and the stipulations and the answers to interrogatories and demands to admit and the affidavits and the exhibits on file show that there's no substantial controversy as to any material fact.

General Motors is in possession under an executory contract to purchase, and that interest simply is taxable.

I'm aware that the Supreme Court in the Dunbar case said that they were not passing upon the correct-

ness of the July 31st, 1979, opinion of the Attorney General. They went on to say that nothing contained in that opinion should be construed as meaning that the Supreme Court approves or disapproves of either the reasons or the conclusions of that opinion.

Well, this whole problem arises, I think, due to the opinion of the Attorney General back in 1969, Opinion 69-156.

And I suggest that after you go through all of the contentions of the parties, contractual and all of the other facets and aspects of it, that that opinion has, in truth and in fact, because property of this nature has not been assessed up until the Dunbar opinion, has saved several million dollars of taxes to General Motors and perhaps others anyway.

Nevertheless, since the opinion of the Attorney General of July 31st, '79, apparently has not been passed on, as I understand the Dunbar opinion, I think that the July 31st, 1979, opinion should be approved by the Court, and the reasons and conclusions in that opinion, at least in general, should be approved by the Court. And for whatever value that is, I make that finding here and now.

And the 1969 opinion, 69-156, of course, was withdrawn by the Attorney General, as it should have been. It was incorrect.

The Motion for Summary Judgment of the Defendants and the Defendant-Intervenor are sustained. And that eliminates the necessity for a long and protracted trial, which would be an exercise in futility under both the spirit and the substance of the law in the Dunbar case.

Does either side have anything further that they would like to take up at this time or any questions or any statements they'd like to make?

MR. FRANKS: Nothing for the Intervenor, Your Honor.



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MR. SNIDER: No, Your Honor.

MR. PAULL: Nothing for the Defendant, Your Honor.

THE COURT: All right, court's in recess, subject to call.

(END OF PROCEEDINGS)

[SEAL OF THE  
OKLAHOMA CITY  
CHAMBER OF  
COMMERCE]

ONE SANTA FE PLAZA  
OKLAHOMA CITY, OKLAHOMA 73102  
405 232-6381

October 1, 1976

Mr. Dave Dumas  
Argonaut  
Division of General Motors  
485 West Milwaukee Avenue  
Detroit, Michigan 48202

Dear Mr. Dumas:

This letter is to confirm our discussion in Oklahoma City on 30 September 1976 there is a methodology by which certain sales tax savings (4% in Oklahoma City) and stability insofar as ad valorem (real property) taxation could be achieved through the utilization of the Oklahoma Industries Authority (an agency of the State of Oklahoma) which is an Oklahoma County based industrial authority to promote industry under applicable state law and Section 103(c) of the IRS Code.

As with most all trusts the Authority has a beneficiary, which in this instance is Oklahoma County.

The governing body of the County is three County Commissioners, elected by District, who are and have been most cooperative and effective in implementing the industrial development purposes of the Authority throughout Oklahoma County.

The Authority has no independent funds and is governed by a Board of Trustees who are, in each instance, outstanding Oklahoma City civic leaders and bankers. The Authority has outstanding approximately \$150 millions in bonds which are secured by first mortgages on properties under lease to tenants. They are not cross-pledged.

Effective December 1 the Oklahoma law changes slightly in that after that date each project of the Authority will require the approval of the Board of County Commissioners of Oklahoma County as evidenced by the adoption of a formal resolution. Knowing the type and quality of our three County Commissioners this is believed to be a formality only; as our Commissioners would be the first to welcome you to the Oklahoma County community.

As discussed we are limited by the provisions of Section 103(c) of the IRS Code. Thus, considering the size of the project the Authority would be limited to a "small issue" of \$1 million (there is presently pending in Congress legislation to increase this sum to \$10 millions).

The plan of procedure which will offer you the greatest financial benefit appears to be:

1. The Authority issue a series of bonds in the total principal amount of \$1 million (or less if such would be more appropriate) for the purpose of acquiring the site, providing necessary site preparation, perhaps security fence, parking facilities or other site preparation work. This would envision conveyance, for example, of the selected site to the Authority.
2. Simultaneous with the issue the Authority would lease (with minimal option to buy) the site to you with the lease rentals being a sum exactly the amount required to amortize the bond issue and the fees of the bank paying agent.
3. The bond issue would be over a duration of time most suitable to your own financing and internal requirements. A five year minimum is suggested with perhaps a twelve year maximum. Except for initial financing costs, such as printing expense, recording fees, legal and fiscal, there is no other charge at any time made by the Authority, as the Authority is created solely for industrial development purposes.

4. At the time of the issue of the bonds or immediately thereafter, the time schedule being your own, the Authority would enter into a contract with the contractor of your choice for the erection of the facility. It would be of equal ease if the contract were negotiated by you and assigned to the Authority. Either route is of equal merit.
5. The lease instrument of the site and the facility mentioned above from the Authority to you would provide that the total cost to the Authority would be the agreed amount of the bond proceeds and all costs thereover would be provided to the Authority by you without reimbursement.
6. As the construction work is being done by the Authority the purchase of tangible building materials (often referred to as "the brick and mortar") is exempt from from the 4 per cent state and municipal sales tax or the 2 per cent state use tax. This exemption does not apply to purchases made direct by the contractor or by any other entity than the Authority. The Authority has a complete procedure in effect to see that this exemption is accomplished with little or no difficulty to the prime contractor.
7. As to ad valorem taxation, it is the law in Oklahoma, and was confirmed by the Legislature that just adjourned, that industrial property used in manufacturing owned by the Authority is exempt from ad valorem taxation. However, it is a policy, the merit of which I am certain you appreciate, that the Authority collect from the various industrial tenants an agreed sum annually in lieu of the exempt tax. This sum is distributed annually by the Authority to the various school districts, to the County and to the City based upon a formula prepared annually for the Authority by a Municipal

Public Accountant based upon the census of your employees and where they live. The amount of this public purpose money is, of course, subject generally to discussion and agreement. Generally you will find it quite satisfactory and is based upon the fact that the County Assessor, for a new industrial development property, would place the property on the tax rolls at approximately 15 to 18 per cent of the actual "brick and mortar" cost. The land cost is usually added in at its original "raw land" value.

8. At the expiration of the lease mentioned above the Authority would convey the facility by general deed of conveyance to the lessee or its nominee for a nominal sum. Of course, upon such conveyance the property would then go on the tax rolls as would property of any other private citizen.

All of the above, of course, is oversimplification of a rather complex legal and tax subject but the details can readily be worked out.

Due to the size of the operation contemplated on this \$1 million leasehold it should be precleared (as was done with the major Dayton Tire (Firestone) facility) with the cooperation and input of all of the following which, it is felt, can be obtained:

- (a) Office of the Governor
- (b) Oklahoma Tax Commission
- (c) Board of County Commissioners of Oklahoma County
- (d) County Assessor

As you are aware our original proposal to General Motors contained a number of commitment letters. We have kept in touch with the various government bodies that issued the letters and can assure General Motors that the

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commitments still stand. We are, of course, very anxious to continue working with you and your associates and look forward to hearing from you.

Sincerely,

/s/ PAUL B. STRASBAUGH  
Paul B. Strasbaugh  
*Executive Vice President*

[SEAL OF THE  
OKLAHOMA CITY  
CHAMBER OF  
COMMERCE]

ONE SANTA FE PLAZA  
OKLAHOMA CITY, OKLAHOMA 73102  
405 232-6381

5 October 1976

Philip A. Hoffman, Esq.  
Manager, Special Tax Projects  
General Motors Corporation  
3044 West Grand Boulevard  
Detroit, Michigan 48202

Dear Mr. Hoffman:

Supplementing your visit to Oklahoma City yesterday and today and further supplementing our letter to Dave Dumas dated 1 October 1976, copy attached, we would like to confirm the results of the several meetings in Oklahoma City, yesterday and today, with the officials and the parties reflected on Exhibit "B" attached hereto.

Under existing Attorney General Opinions reflected on Exhibit "C" attached hereto and long-standing Supreme Court case law construing the public trust law in the State of Oklahoma, the Oklahoma City Chamber of Commerce, after discussion with several of the Trustees of the Oklahoma Industries Authority, would like to confirm that your proposed facility in Oklahoma City could be erected with certain tax freedom as herein outlined:

1. We have been advised as to certain restrictions in your Articles of Incorporation and certain Delaware case or statutory law that might construe a "sale-lease back" to be a mortgage and inhibited by your Articles and, accordingly, you would retain title to your present ground in

Oklahoma City which would remain on the ad valorem tax rolls like the property of any private citizen. Probably the County Assessor would assess this land at its raw land cost to you.

2. The Oklahoma Industries Authority would lease from you for a proposed twenty year term (with nominal rental) and erect thereon your proposed facility and utilize said facility for a tax exempt revenue bond issue of \$1 million or less which would be available for the cost of the project. The balance of the funds would "flow through" or in the alternative by making your contractor an agent of Oklahoma Industries Authority would be contributed and the facility erected. The facility would then be "leased back to you" for an amount, only, necessary to fund the \$1 million bond issue over the period of twenty years.

3. Since the Authority is "tax exempt" the improvements would not be subject to real estate (and in certain instances of major items of machinery) taxation during the term of the leasehold which implements the public policy re-enunciated in the industrial development trust law reaffirmed by the last Legislature and the Governor of Oklahoma to induce you to come to Oklahoma.

4. The Oklahoma Industries Authority as a trust with Oklahoma County as its beneficiary and with seven prominent civic leaders and bankers as Trustees has issued and outstanding in excess of \$150 millions in industrial revenue bonds covering more than fifty industrial tenants. In its history the Authority through its Trustees has uniformly asked for and has uniformly received in nearly all instances an "in lieu of" payment of money for "public purposes" which said public purpose money augments support of local schools, etc. as outlined in the Dumas letter. The "public purpose money" is a negotiable item. Two fairly recent examples of major industry in the State



of Oklahoma that have acceded to the public purpose payment are the Dayton (Firestone) Tire facility which we drove by, as you will recall, and the Weyerhaeuser facility in southeastern Oklahoma, a some \$200 millions facility. The Firestone public purpose payment after negotiation some few years ago ended up being 3/10 of 1% of the book value of the facility as certified by the industry for the facility in question annually. Based on this precedent we feel that a similar arrangement could be worked out with General Motors.

5. In the meeting yesterday with the Attorney General and two of the three Commissioners of the Oklahoma Tax Commission there was outlined to you the methodology by which you could be spared the 4% Sales Tax on the "brick and mortar" portions of the facility by the methodology and mechanics outlined and documented to you separately from this letter.

6. The references in this letter to erect, include, of course, "erect and equip" in order to effect the ad valorem exemption, as envisioned, during the term of the lease.

7. Under the existing state of the law for industrial development in Oklahoma there is absolutely no question in our mind that you must be induced to reopen this project and come to the State of Oklahoma even though you own an industrial site here. Several years have passed since the acquisition of this site; there have been enormous national energy problems; car sizes have changed; industrial site potentials in other states have changed; and the industrial development public trust law in Oklahoma is to promote industry; to, principally, create jobs and to provide a methodology to induce you to come to the State of Oklahoma. The purpose of this letter, in line with the long-standing legislative policy; Attorney General Opinions; and Supreme Court decisions; is to induce

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General Motors to erect this facility in the State of Oklahoma to implement this long-standing legislation to create jobs in the State of Oklahoma.

Sincerely yours,

/s/ PAUL B. STRASBAUGH  
Paul B. Strasbaugh  
*Executive Vice President*